

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Proposing rule making related to problem gambling, test samples, and Iowa-foaled horse allowance and providing an opportunity for public comment

The Racing and Gaming Commission hereby proposes to amend Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” and Chapter 10, “Thoroughbred and Quarter Horse Racing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 99D and 99F.

Purpose and Summary

The proposed amendments implement legislation passed in 2018.

Item 1 implements 2018 Iowa Acts, House File 2349, which amends Iowa Code sections 99D.7(23) and 99F.4(22).

Items 2 and 3 and 5 through 7 implement 2018 Iowa Acts, House File 2439, which amends Iowa Code sections 99D.23(1) and 99D.23(2) to add “hair” as an allowable sample for testing purposes.

Item 4 implements 2018 Iowa Acts, House File 2439, which amends Iowa Code section 99D.22(1)“a” with regard to Iowa-foaled horses.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on August 21, 2018. Comments should be directed to:

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 21, 2018
9 a.m.

Commission Office, Suite 100
1300 Des Moines Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 5.4(12) as follows:

5.4(12) Problem gambling.

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

(1) Identify problem gamblers; ~~and~~

(2) Comply with the process established by the commission to allow a person to be voluntarily excluded from the gaming floor of an excursion gambling boat, from the wagering area as defined in Iowa Code section 99D.2, and from the gaming floor of all other licensed facilities or gambling activities regulated under Iowa Code chapters 99D and 99F; and

~~(2) (3)~~ Allow persons to be voluntarily excluded for five years or life from all facilities on a form prescribed by the commission. Each facility will disseminate information regarding the exclusion to all other facilities licensees and the commission.

b. and c. No change.

d. Money forfeited by a voluntarily excluded person pursuant to Iowa Code sections 99D.7(23) and 99F.4(22) shall be withheld by the licensee and remitted to the general fund of the state by the licensee.

ITEM 2. Amend rule ~~491—10.1(99D)~~, definition of “Test sample,” as follows:

“Test sample” means any bodily substance including, but not limited to, blood, ~~or~~ urine, or hair taken from a horse under the supervision of the commission veterinarian and as prescribed by the commission for the purpose of analysis.

ITEM 3. Amend subrule 10.2(7) as follows:

10.2(7) Detention enclosure. Each facility shall maintain a detention enclosure for use by the commission for securing samples of urine, saliva, blood, hair, or other bodily substances or tissues for chemical analysis from horses ~~who~~ that have run in a race. The enclosure shall include a wash rack, commission veterinarian office, a walking ring, at least four stalls, workroom for the sample collectors with hot and cold running water, and glass observation windows for viewing of the horses from the office and workroom. An owner, trainer, or designated representative licensed by the commission shall be with a horse in the detention barn at all times.

ITEM 4. Adopt the following **new** subparagraph **10.4(5)“g”(5)**:

(5) Iowa-foaled horse allowance. Iowa-foaled horses that are properly registered and whose papers are stamped by the Iowa department of agriculture shall be allowed an additional three pounds beyond the stated conditions of the race if the race is not limited to Iowa-foaled horses. This allowance does not apply to stakes races.

ITEM 5. Amend subparagraph **10.5(1)“a”(27)** as follows:

(27) Witnessing the collection of a urine, ~~or~~ blood, or hair sample from the horse in the trainer's charge or delegating a licensed employee or the owner of the horse to do so.

ITEM 6. Amend paragraph **10.7(1)“c”** as follows:

c. Proof of detection by the commission chemist of the presence of a medication, drug, foreign substance, or metabolic derivative thereof, prohibited by paragraph ~~“a”~~ 10.7(1)“a” or “b,” in a saliva, urine, ~~or~~ blood, or hair sample duly taken under the supervision of the commission veterinarian from a horse immediately prior to or promptly after running in a race shall be prima facie evidence that the horse was administered, with the intent that it would carry or that it did carry in its body while running in a race, prohibited medication, drug, or foreign substance in violation of this rule.

ITEM 7. Amend paragraph **10.7(2)“a”** as follows:

a. Under the supervision of the commission veterinarian, urine, blood, hair, and other specimens shall be taken and tested from any horse that the stewards, commission veterinarian, or the commission's representatives may designate. The samples shall be collected by the commission veterinarian or other person or persons the commission may designate. Each sample shall be marked or numbered and bear information essential to its proper analysis; but the identity of the horse from which the sample was taken or the identity of its owners or trainer shall not be revealed to the official chemist or the staff of the chemist. The container of each sample shall be sealed as soon as the sample is placed therein.